



Judiciary I - Civil Law Committee

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LRB095 10586 DRH 36330 a

1 AMENDMENT TO SENATE BILL 435

2 AMENDMENT NO. _____. Amend Senate Bill 435 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 18a-100, 18a-101, 18a-105, 18a-500, and
6 18a-501 and by adding Sections 18a-308, 18a-309, 18a-310,
7 18a-311, 18a-312, 18a-313, 18a-314, and 18a-315 as follows:

8 (625 ILCS 5/18a-100) (from Ch. 95 1/2, par. 18a-100)

9 Sec. 18a-100. Definitions. As used in this Chapter: (1)
10 "Commercial vehicle relocater" or "relocater" means any person
11 or entity engaged in the business of removing trespassing
12 vehicles from private property or damaged or disabled vehicles
13 from public or private property by means of towing or
14 otherwise, and thereafter relocating and storing such
15 vehicles;

16 (2) "Commission" means the Illinois Commerce Commission;

1 (3) "Operator" means any person who, as an employee of a
2 commercial vehicle relocater, removes trespassing vehicles
3 from private property or damaged or disabled vehicles from
4 public or private property by means of towing or otherwise.
5 This term includes the driver of any vehicle used in removing a
6 trespassing vehicle from private property, as well as any
7 person other than the driver who assists in the removal of a
8 trespassing vehicle from private property;

9 (4) "Operator's employment permit" means a license issued
10 to an operator in accordance with Sections 18a-403 or 18a-405
11 of this Chapter;

12 (5) "Relocator's license" means a license issued to a
13 commercial vehicle relocater in accordance with Sections
14 18a-400 or 18a-401 of this Chapter;

15 (6) "Dispatcher" means any person who, as an employee or
16 agent of a commercial vehicle relocater, dispatches vehicles to
17 or from locations from which operators perform removal
18 activities; and

19 (7) "Dispatcher's employment permit" means a license
20 issued to a dispatcher in accordance with Sections 18a-407 or
21 18a-408 of this Chapter.

22 (Source: P.A. 85-923.)

23 (625 ILCS 5/18a-101) (from Ch. 95 1/2, par. 18a-101)

24 Sec. 18a-101. Declaration of policy and delegation of
25 jurisdiction. It is hereby declared to be the policy of the

1 State of Illinois to supervise and regulate the commercial
2 removal of trespassing vehicles from private property and
3 damaged or disabled vehicles from public or private property,
4 and the subsequent relocation and storage of such vehicles in
5 such manner as to fairly distribute rights and responsibilities
6 among vehicle owners, private property owners and commercial
7 vehicle relocators, and for this purpose the power and
8 authority to administer and to enforce the provisions of this
9 Chapter shall be vested in the Illinois Commerce Commission.

10 The General Assembly finds and declares that commercial
11 vehicle relocation in the State of Illinois fundamentally
12 affects the public interest and public welfare. It is the
13 intent of the General Assembly, in this amendatory Act of the
14 95th General Assembly, to promote the public interest and the
15 public welfare by regulating those who engage in commercial
16 vehicle relocation in Illinois, in order to provide maximum
17 safety for all persons who travel or otherwise use the public
18 highways of this State.

19 (Source: P.A. 80-1459.)

20 (625 ILCS 5/18a-105) (from Ch. 95 1/2, par. 18a-105)

21 Sec. 18a-105. Exemptions. This Chapter shall not apply to
22 the relocation of motorcycles.÷

23 ~~(1) Vehicles registered for a gross weight in excess of~~
24 ~~10,000 pounds, or if the vehicle is not registered, with a~~
25 ~~gross weight in excess of 10,000 pounds including vehicle~~

1 ~~weight and maximum load; or~~

2 ~~(2) Motorcycles.~~

3 Such relocation shall be governed by the provisions of
4 Section 4-203 of this Code.

5 (Source: P.A. 85-923.)

6 (625 ILCS 5/18a-308 new)

7 Sec. 18a-308. Disclosure to vehicle owner or operator
8 before towing of damaged or disabled vehicle commences.

9 (a) A commercial vehicle relocater or operator shall not
10 commence the towing of a damaged or disabled vehicle without
11 specific authorization from the vehicle owner or operator after
12 the disclosures set forth in this Section.

13 (b) Every commercial vehicle relocater or operator shall,
14 before towing a damaged or disabled vehicle, give to each
15 vehicle owner or operator a written disclosure providing:

16 (1) The formal business name of the commercial vehicle
17 relocater or its operator, as registered with the Illinois
18 Secretary of State, and its business address and telephone
19 number.

20 (2) The address of the location to which the vehicle
21 shall be relocated by the operator.

22 (3) The cost of all relocation, storage, and any other
23 fees, without limitation, that the commercial vehicle
24 relocater or operator will charge for its services.

25 (4) An itemized description of the vehicle owner or

1 operator's rights under this Code, as follows:

2 "As a customer, you also have the following rights
3 under Illinois law:

4 (1) This written disclosure must be provided to you
5 before your vehicle is towed, providing the business
6 name, business address, address where the vehicle will
7 be towed, and a reliable telephone number;

8 (2) Before towing, you must be advised of the price
9 of all services;

10 (3) Upon your demand, a final invoice itemizing all
11 charges, as well as any damage to the vehicle upon its
12 receipt and return to you, must be provided;

13 (4) Upon your demand, your vehicle must be returned
14 during business hours, upon your prompt payment of all
15 reasonable fees;

16 (5) You have the right to pay all charges in cash
17 or by major credit card;

18 (6) Upon your demand, you must be provided with
19 proof of the existence of mandatory insurance insuring
20 against all risks associated with the transportation
21 and storage of your vehicle."

22 (c) The commercial vehicle relocater or operator shall
23 provide a copy of the completed disclosure required by this
24 Section to the vehicle owner or operator, before towing the
25 damaged or disabled vehicle, and shall maintain an identical
26 copy of the completed disclosure in its records for a minimum

1 of 5 years after the transaction concludes.

2 (d) If the vehicle owner or operator is incapacitated,
3 incompetent, or otherwise unable to knowingly accept receipt of
4 the disclosure described in this Section, the commercial
5 vehicle relocater or operator shall provide a completed copy of
6 the disclosure to local law enforcement and, if known, the
7 vehicle owner or operator's automobile insurance company.

8 (e) If the commercial vehicle relocater or operator fails
9 to comply with the requirements of this Section, the commercial
10 vehicle relocater or operator shall be prohibited from seeking
11 any compensation whatsoever from the vehicle owner or operator,
12 including but not limited to any towing, storage, or other
13 incidental fees. Furthermore, if the commercial vehicle
14 relocater or operator fails to comply with the requirements of
15 this Section, any contracts entered into by the commercial
16 vehicle relocater or operator and the vehicle owner or operator
17 shall be deemed null, void, and unenforceable.

18 (625 ILCS 5/18a-309 new)

19 Sec. 18a-309. Disclosures to vehicle owners or operators;
20 invoices.

21 (a) Upon demand of the vehicle owner or operator, the
22 commercial vehicle relocater or operator shall provide an
23 itemized final invoice that fairly and accurately documents the
24 charges owed by the vehicle owner or operator for relocation of
25 damaged or disabled vehicles. The final estimate or invoice

1 shall accurately record in writing all of the items set forth
2 in this Section.

3 (b) The final invoice shall show the formal business name
4 of the commercial vehicle relocater or its operator, as
5 registered with the Illinois Secretary of State, its business
6 address and telephone number, the date of the invoice, the
7 odometer reading at the time the final invoice was prepared,
8 the name of the vehicle owner or operator, and the description
9 of the motor vehicle, including the motor vehicle
10 identification number. In addition, the invoice shall describe
11 any modifications made to the vehicle by the commercial vehicle
12 relocater or operator, any observable damage to the vehicle
13 upon its initial receipt by the commercial vehicle relocater or
14 operator, and any observable damage to the vehicle at the time
15 of its release to the vehicle owner or operator. The invoice
16 shall itemize any additional charges and include those charges
17 in the total presented to the vehicle owner or operator.

18 (c) A legible copy of the invoice shall be given to the
19 vehicle owner or operator, and a legible copy shall be retained
20 by the collision repair facility for a period of 5 years from
21 the date of release of the vehicle. The copy may be retained in
22 electronic format. Records may be stored at a separate
23 location.

24 (625 ILCS 5/18a-310 new)

25 Sec. 18a-310. Disclosures to vehicle owners or operators;

1 required signs. Every commercial vehicle relocater's or
2 operator's storage facility that relocates or stores damaged or
3 disabled vehicles shall post, in a prominent place on the
4 business premises, one or more signs, readily visible to
5 customers, in the following form:

6 YOUR CUSTOMER RIGHTS. YOU ARE ENTITLED BY LAW TO:

7 1. BEFORE TOWING, A WRITTEN DISCLOSURE STATING THE NAME
8 OF THE TOWING AND STORAGE SERVICE, ITS BUSINESS ADDRESS AND
9 TELEPHONE NUMBER, AND THE ADDRESS WHERE THE VEHICLE WAS TO
10 BE TOWED.

11 2. BEFORE TOWING, THE PRICE OF ALL CHARGES FOR THE
12 TOWING AND STORAGE OF YOUR VEHICLE.

13 3. UPON YOUR DEMAND FOR THE RETURN OF YOUR VEHICLE, A
14 FINAL INVOICE ITEMIZING ALL CHARGES FOR TOWING, STORAGE, OR
15 ANY OTHER SERVICES PROVIDED, AS WELL AS ANY DAMAGE
16 IDENTIFIED TO THE VEHICLE AT THE TIME IT WAS TAKEN BY THE
17 TOWING AND STORAGE FACILITY, AS WELL AS ANY DAMAGE TO THE
18 VEHICLE IDENTIFIED UPON ITS RELEASE TO YOU.

19 4. THE RETURN OF YOUR VEHICLE, UPON YOUR DEMAND FOR ITS
20 RETURN DURING BUSINESS HOURS AND YOUR PROMPT PAYMENT OF ALL
21 REASONABLE FEES.

22 5. PAY ALL CHARGES IN CASH OR BY MAJOR CREDIT CARD.

23 6. UPON YOUR DEMAND, PROOF OF THE EXISTENCE OF
24 INSURANCE, WHICH THE COMMERCIAL VEHICLE RELOCATOR MUST
25 MAINTAIN TO INSURE AGAINST RISK OF DAMAGE TO YOUR VEHICLE
26 IN TRANSIT AND WHILE IN STORAGE.

1 IF THE COMMERCIAL VEHICLE RELOCATOR HAS COMPLIED WITH
2 THE ABOVE RIGHTS, YOU ARE REQUIRED, BEFORE TAKING THE
3 VEHICLE FROM THE PREMISES, TO PAY FOR THE SERVICES PROVIDED
4 BY THE COMMERCIAL VEHICLE RELOCATOR.

5 The first line of each sign shall be in letters not less
6 than 1.5 inches in height, and the remaining lines shall be in
7 letters not less than one-half inch in height.

8 (625 ILCS 5/18a-311 new)

9 Sec. 18a-311. Record keeping. Every commercial vehicle
10 relocator and operator engaged in relocation or storage of
11 damaged or disabled vehicles shall maintain copies of (i) all
12 disclosures provided to vehicle owners or operators as required
13 under Section 18a-308 and (ii) all invoices provided to vehicle
14 owners or operators as required under Section 18a-309. The
15 copies may be maintained in an electronic format, shall be kept
16 for 5 years, and shall be available for inspection by the
17 Attorney General.

18 (625 ILCS 5/18a-312 new)

19 Sec. 18a-312. Waiver or limitation of liability
20 prohibited.

21 (a) Commercial vehicle relocators or operators engaged in
22 the relocation or storage of damaged or disabled vehicles shall
23 be prohibited from including a clause in contracts for the
24 relocation or storage of vehicles purporting to waive or limit

1 the commercial vehicle relocater's or operator's liability
2 under this Code, in tort or contract, or under any other
3 cognizable cause of action available to the vehicle owner or
4 operator.

5 (b) Commercial vehicle relocators or operators are
6 prohibited from requiring the vehicle owner or operator to sign
7 or agree to any document purporting to waive or limit the
8 commercial vehicle relocater's and operator's liability under
9 this Code, in tort or contract, or under any other cognizable
10 cause of action available to the vehicle owner or operator.

11 (c) Any contract, release, or other document purporting to
12 waive or limit the commercial vehicle relocater's or operator's
13 liability under this Code, in tort or contract, or under any
14 other cognizable cause of action available to the vehicle owner
15 or operator, shall be deemed null, void, and unenforceable.

16 (625 ILCS 5/18a-313 new)

17 Sec. 18a-313. Unlawful practice. Any commercial vehicle
18 relocater or operator engaged in the relocation or storage of
19 damaged or disabled vehicles who fails to comply with Sections
20 18a-308, 18a-309, 18a-310, 18a-312, or 18a-500 of this Code
21 commits an unlawful practice within the meaning of the Consumer
22 Fraud and Deceptive Business Practices Act.

23 (625 ILCS 5/18a-314 new)

24 Sec. 18a-314. Charges payable in cash or by major credit

1 card. Any towing or storage charges accrued by the vehicle
2 owner or operator shall be payable by the use of any major
3 credit card, in addition to being payable in cash.

4 (625 ILCS 5/18a-315 new)

5 Sec. 18a-315. Mandatory insurance coverage.

6 (a) A commercial vehicle relocater or operator shall
7 provide insurance coverage for all risks associated with the
8 transportation of vehicles towed under this Chapter, as well as
9 for areas where vehicles towed under this Chapter are impounded
10 or otherwise stored, and shall adequately cover loss by fire,
11 theft, or other risks.

12 (b) Upon the demand of the vehicle owner or operator, a
13 commercial vehicle relocater or operator shall promptly supply
14 proof of the existence of this insurance.

15 (c) Any person who fails to comply with the conditions and
16 restrictions of this subsection shall be guilty of a Class C
17 misdemeanor and shall be fined not less than \$100 nor more than
18 \$500.

19 (625 ILCS 5/18a-500) (from Ch. 95 1/2, par. 18a-500)

20 Sec. 18a-500. Posting of rates. Every commercial vehicle
21 relocater shall print and keep open to the public, all
22 authorized rates and charges for towing, otherwise moving, and
23 storing vehicles in connection with removal of unauthorized
24 vehicles from private property or damaged or disabled vehicles

1 from public or private property. Such rates and charges shall
2 be clearly stated in terms of lawful money of the United
3 States, and shall be posted in such form and manner, and shall
4 contain such information as the Commission shall by regulation
5 prescribe.

6 (Source: P.A. 80-1459.)

7 (625 ILCS 5/18a-501) (from Ch. 95 1/2, par. 18a-501)

8 Sec. 18a-501. Liens against relocated vehicles.

9 (a) Except as otherwise provided in subsection (b), any
10 vehicle ~~Unauthorized vehicles~~ removed and stored by a
11 commercial vehicle relocater in compliance with this Chapter
12 shall be subject to a possessory lien for services pursuant to
13 the Labor and Storage Lien (Small Amount) Act, and the
14 provisions of Section 1 of that Act relating to notice and
15 implied consent shall be deemed satisfied by compliance with
16 Section 18a-302 and item (10) of Section 18a-300. In no event
17 shall such lien be greater than the rate or rates established
18 in accordance with item (6) of Section 18a-200. In no event
19 shall such lien be increased or altered to reflect any charge
20 for services or materials rendered in addition to those
21 authorized by this Act. Every such lien shall be payable by use
22 of any major credit card, in addition to being payable in cash.
23 Upon receipt of a properly signed credit card receipt, a
24 relocater shall become a holder in due course, and neither the
25 holder of the credit card nor the company which issued the

1 credit card may thereafter refuse to remit payment in the
2 amount shown on the credit card receipt minus the ordinary
3 charge assessed by the credit card company for processing the
4 charge. The Commission may adopt regulations governing
5 acceptance of credit cards by a relocater.

6 (b) A commercial vehicle relocater or operator that fails
7 to comply with Sections 18a-300, 18a-301, 18a-302, 18a-304,
8 18a-308, 18a-309, 18a-310, 18a-311, 18a-312, or 18a-500 of this
9 Code is barred from asserting a possessory or chattel lien for
10 the amount of any fees claimed for any towing, storage, or
11 other services provided.

12 (Source: P.A. 91-357, eff. 7-29-99.)

13 Section 10. The Consumer Fraud and Deceptive Business
14 Practices Act is amended by changing Section 2Z as follows:

15 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

16 Sec. 2Z. Violations of other Acts. Any person who knowingly
17 violates the Automotive Repair Act, the Automotive Collision
18 Repair Act, the Home Repair and Remodeling Act, the Dance
19 Studio Act, the Physical Fitness Services Act, the Hearing
20 Instrument Consumer Protection Act, the Illinois Union Label
21 Act, the Job Referral and Job Listing Services Consumer
22 Protection Act, the Travel Promotion Consumer Protection Act,
23 the Credit Services Organizations Act, the Automatic Telephone
24 Dialers Act, the Pay-Per-Call Services Consumer Protection

1 Act, the Telephone Solicitations Act, the Illinois Funeral or
2 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
3 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
4 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
5 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
6 Act, the Payday Loan Reform Act, subsection (a) or (b) of
7 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
8 Act, paragraph (6) of subsection (k) of Section 6-305 of the
9 Illinois Vehicle Code, Section 18a-308, 18a-309, 18a-310,
10 18a-312, or 18a-500 of the Illinois Vehicle Code as provided in
11 Section 18a-313 of that Code, Article 3 of the Residential Real
12 Property Disclosure Act, the Automatic Contract Renewal Act, or
13 the Personal Information Protection Act commits an unlawful
14 practice within the meaning of this Act.

15 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,
16 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,
17 eff. 1-1-06; 94-822, eff. 1-1-07.)".